

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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FRANCINY DIAZ,

Plaintiff,

-against-

WESTBURY PANCAKE HOUSE, INC.
doing business as International House of
Pancakes, LLC, and DANIEL Y. CHUN

Defendants.

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ORDER ADOPTING R & R

Civil Action No. 16-743(DRH)(SIL)

HURLEY, Senior District Judge:

Presently before the Court is the Report and Recommendation, dated February 1, 2017, of Magistrate Judge Steven I. Locke recommending that (1) the cross-motion of defendants Westbury Pancake House and Daniel Y. Chun (“defendants”) to set aside the default be granted and (2) the motion of plaintiff Franciny Diaz (“plaintiff”) for a default judgment against defendants be denied as moot. More than fourteen days have elapsed since service of the Report and Recommendation and no objections have been filed.

Pursuant to 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72, this Court has reviewed the Report and Recommendation for clear error, and finding none, now concurs in both its reasoning and its result. The Court adopts the February 2, 2017 Report and Recommendation of Judge Locke as if set forth herein. Accordingly,

IT IS HEREBY ORDERED that defendants’ cross-motion to vacate the default is granted and defendants shall answer or otherwise respond to the complaint within fifteen (15) days of the date of this Order; and it is

FURTHER ORDERED that plaintiff's motion for a default judgment is denied as moot.

Dated: Central Islip, N.Y.
February 16, 2017

/s/ Denis R. Hurley
Denis R. Hurley
United States District Judge